

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE) DOCKET NO.: PT-2003-9
OF THE STATE OF MONTANA,)
)
Appellant,)
)
-vs-)
)
DONA L. PERKINS,) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
Respondent.) ORDER and OPPORTUNITY
) FOR JUDICIAL REVIEW

The above-entitled appeal was heard on April 22, 2004, in Helena, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The Respondent was represented by her sons, Gregory and John Perkins. The Department of Revenue (DOR), represented by Appraiser Randall Kaiser, and Area Manager Kory Hofland, presented testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony and exhibits from the Department of Revenue were received.

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The Board will modify the decision of the Lewis and Clark County Tax Appeal Board.

FACTUAL BACKGROUND

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is described as follows:

Land and improvements located upon Lot 9, Lincoln Heights subdivision to the City of Lincoln, County of Lewis and Clark, State of Montana (geocode 05-2337-18-4-01-31-0).

3. For tax year 2003, the Department of Revenue appraised the subject land at a value of \$23,011 and the improvements at a value of \$52,589.

4. The taxpayer filed an appeal with the Lewis and Clark County Tax Appeal Board on July 10, 2003, requesting an unspecified reduction in land and improvement, stating:

Property has asbestos siding for foundation.
No permanent footers. Cannot be FHA
approved. Needs permanent work for
foundation floor and no winter living.

5. The Lewis and Clark County Tax Appeal Board heard the appeal on October 7, 2003.

6. The County Board issued its decision on October 7, 2003, adjusting the total land and improvement value to \$60,000, stating:

The true market value for this property, after adjustment, is \$60,000.

7. The DOR appealed that decision to this Board on November 4, 2003, because:

No substantive evidence was presented by the taxpayer to support his requested value.

DOR'S CONTENTIONS

The property in contention is a 960 square foot residential cabin and outbuildings, including a garage with an addition. The 640 square foot original structure was built in 1958. A 320 square foot addition was constructed on the back at an unknown date. A 720 square foot garage with a 960 square foot addition is also under appeal. A 9' by 11' storage shed, a 14' by 22' pole frame canopy and an 8' by 12' pole frame canopy comprise the remainder of the improvements associated with the subject property. The cabin has a wood foundation. The newer garage and its addition have a concrete foundation.

During the initial review of the property filed in response to the filing of an AB 26 form for property review,

the DOR appraiser was not able to view the inside of the property. Therefore, an external review was performed. Mr. Kaiser testified that he reviewed the property just prior to the hearing before this Board. He verified all of the DOR measurements and judgments concerning quality grade and CDU (condition, desirability and utility). An adjustment was made to the effective age of the cabin, a correction was made to the dimensions of the garage addition, and one pre-fabricated fireplace was removed from the property record card. The result of these adjustments was a reduction in total property value from \$77,400 to \$75,600.

The DOR presented a number of photographs depicting the subject property (Exhibit D).

The DOR used a market model analysis to value the subject improvements (Exhibit E). Mr. Kaiser admits that this model is "less clean" than one might like to see, i.e., its computer modeling system found less than perfect comparability between the subject and other properties. Sales data was not plentiful and, therefore, more dissimilar property sales were used in the sales model. However, as a gesture of good will, the DOR used the market sale approach (\$75,600) instead of a replacement cost approach (\$77,121)

because the latter was higher than the former. According to Mr. Kaiser, this approach was "pretty much against the way we're supposed to do it", but it was done to give the taxpayer the benefit of doubt. This determination was made through the above-mentioned AB 26 process of review.

Mr. Kaiser presented series of photographs depicting the sales properties used by the DOR to value the subject. (Exhibit F) Mr. Kaiser contends that the photographs of these properties show that they are more similar than dissimilar to the subject than the DOR's market model analysis might suggest.

DOR Exhibit H is a copy of the DOR's CALP (computer-assisted land pricing) model for the subject land. Through sales occurring during 1998 through 2001, the DOR determined a base size of 20,000 square feet and a base rate per square foot of \$1.00. Residual square footage is valued at \$0.15 per square foot.

TAXPAYER'S CONTENTIONS

John Perkins testified that the subject cabin sits on blocks with no foundation. These foundation blocks are lined with asbestos. This structure is only used during the summer months because it is not insulated. The floor cannot

be insulated because no crawl space exists underneath, creating a convection problem. Only one bedroom in the cabin is heated with a propane heater. There are no thermal pane windows.

The interior of the cabin is open with no doors on any rooms except on the bathroom. The fireplace is "ready to fall over."

The cabin was built in 1958 from a prefabricated kit for \$5,000. The garage and addition were built for approximately \$6,800 and \$5,000 using family labor. John Perkins contends that "there is no money involved here in this thing because we did it ourselves ... and Dad was never a good carpenter."

In September of 2003, he purchased an acre across the street from the subject property for \$10,000. Therefore, the DOR's land value of \$23,011 is excessive.

BOARD'S DISCUSSION

Testimony revealed that the taxpayer's requested value of \$60,000 came at the suggestion of the Lewis and Clark County Tax Appeal Board. The Board finds this requested value to be unsupported by evidence in the record.

Further, support for the DOR's land value of \$23,011 exists in the record. However, the taxpayer's testimony regarding the deficiencies present in the structure designated as a cabin warrants a reduction in the CDU (condition, desirability and utility) from "average" to "poor."

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301 MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject improvements shall be entered on the tax rolls of Lewis and Clark County by the local Department of Revenue office at the 2003 value determined by the DOR, with the adoption of a CDU of "poor" rather than "average" for the structure identified as a residence. The land value shall remain as appraised by the DOR at \$23,011. The appeal of the DOR is therefore granted in part and denied in part and the decision of the Lewis and Clark County Tax Appeal Board is modified.

Dated this 5th day of May, 2004.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of May, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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DONNA EUBANK
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